IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

Crl.Rev.Pet.No. 2357 of 2007()

CRA.397/2006 of ADDL. SESSIONS COURT (ADHOC-II), ERNAKULAM
CC.743/2003 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI

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REVN. PETITIONER: APPELLANT/ACCUSED

SUBHADRA GOPALAKRISHNAN,
W/O.GOPALAKRISHNAN, AGED 50,
MANANCHATH HOUSE, HOUSE NO.50/666A, PONEKKARA,
ELEMAKKARA P.O., ERNAKULAM.

BY ADV. SRI.SANIL KUMAR

RESPONDENTS: RESPONDENTS/COMPLAINANT AND STATE

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1. E.V.ANTONY, ELUVATHINGAL HOUSE,
50/720 A, ROSE VILLA, PONEKKARA, ELAMAKKARA P.O.
ERNAKULAM.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 15/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

CRL.R.P.No.2357 of 2007

Dated this the 15th day of June, 2007

O R D E R

The revision petitioner stands convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced, as modified by the appellate court, to undergo simple imprisonment for a period of one month and to pay a compensation of Rs.1,00,000/- to the complainant vide Section 357(3) of the Code of Criminal Procedure and in default, to undergo simple imprisonment for two months.

2. On a consideration of the decisions of the court below, I find that there is absolutely no grounds to interfere. The revision petitioner has not sent even a reply notice. Revision petitioner has not adduced any evidence to rebut the statutory presumptions. The complainant has testified as to the execution of the cheque. PW2, the Bank Manager has produced the ledger extract of the account of the accused that would show that there was no funds in the account of the accused. In the circumstances, I find that the findings of the courts below are supported by proper reasons. The conviction is confirmed.

3. All the same, considering the plea of the counsel for the revision petitioner, sentence is modified to imprisonment till the rising of the court. The rest of the sentence is confirmed. Revision petitioner is granted six months' time from today onwards to remit the compensation amount. She shall appear before the Judicial First Class Magistrate Court-I, Kochi on 15.12.2007 to receive the sentence. Non bailable warrant pending, if any, shall be kept in abeyance till 15.12.2007.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl